

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**NOREEN SALAZAR, Individually, and as
Wrongful Death Personal Representative of
THE ESTATE OF JOSEPH PORTILLO,**

Plaintiff,

v.

No. 12cv0053 MV/LAM

GINA BOCANEGRA, et al.,

Defendants.

**ORDER STRIKING OPPOSED MOTION FOR WITHDRAWAL
AND SUBSTITUTION OF COUNSEL**

THIS MATTER comes before the Court on Defendants' *Opposed Motion for Withdrawal and Substitution of Counsel* (Doc.47), filed May 15, 2012 by Monica Garcia. The motion asks the Court to allow the withdrawal of Lance Richards and his law firm, and the substitution of Alfred L. Green and Monica R. Garcia and their law firm, as counsel for Defendant Desert Trailer Systems, Inc. Having considered the motion, record of the case, and relevant law, the Court **FINDS** that the motion the Court **FINDS** that the motion was improperly filed and will be **STRICKEN**.

Under the Court's local rules, an attorney must enter an appearance before participating in a proceeding or obtain leave of the Court to sign and file any pleading, motion, or other document. D.N.M. LR-Civ. 83.4(a) ("To participate in a pending proceeding, an attorney must enter an appearance or obtain leave of the Court to sign and file any pleading, motion, or other document."). Ms. Garcia filed the motion before entering an appearance in this case or obtaining leave of Court to substitute as counsel for Defendant Desert Trailer, so the motion is improperly filed. Therefore, the Court will strike this motion from the record.

In addition, the Court notes that the motion fails to state whether Defendant Desert Trailer consents to the withdrawal of Mr. Richards and his law firm as its counsel, and fails to indicate whether Defendant Desert Trailer was served with a copy of the motion to withdraw. *See* D.N.M. LR-Civ. 83.8

- (a) **Unopposed Motion to Withdraw.** The motion to withdraw and proposed order must indicate consent of the client represented by the withdrawing attorney and:
- notice appointment of substitute attorney; or
 - a statement of the client's intention to appear *pro se* and the client's address and telephone number;
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- (b) **Contested Motion to Withdraw.** The attorney must file and serve on all parties, including the client, a motion to withdraw. The attorney must give notice in the motion that objections must be served and filed within fourteen (14) days from the date of service of the motion and that failure to object within this time constitutes consent to grant the motion.

IT IS THEREFORE ORDERED that, for the reasons stated above, Defendants' *Opposed Motion for Withdrawal and Substitution of Counsel (Doc.47)* is **STRICKEN FROM THE RECORD.**

IT IS SO ORDERED.


LOURDES A. MARTÍNEZ
UNITED STATES MAGISTRATE JUDGE